UNITED STATES PATENT AND TRADEMARK OFFICE

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10/596,165	06/02/2006	Srinivas Gutta	P08655US01	3089

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EXAMINER
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ART UNIT	PAPER NUMBER
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NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patatty@ipmvs.com

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS,
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 November 2009</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-4 and 6-15</u> is/are pending in the application.

   4a) Of the above claim(s) <u>5 and 16-23</u> is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-4 and 6-15</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
   application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is in response to the Applicants' argument received on

11/23/2009. Claims 1-4 and 6-15 are currently presenting for examination, with claim 1

being independent.

2.   This action has been made **FINAL**.

Claim Rejections - 35 USC § 102

3.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4.   Claims 1-4 and 6-15 rejected under 35 U.S.C. 102(e) as being anticipated by

Schaffer et al. (hereinafter referred to as Schaffer), US Pub. Number 2006/0026642 A1.

        The applied reference has a common Assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art

under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome

either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

the reference was derived from the inventor of this application and is thus not the

invention "by another," or by an appropriate showing under 37 CFR 1.131.

        Regarding claim 1, Schaffer discloses a method for generating a

recommendation of at least one television program for a viewer (see abstract, lines 1-5),

the method comprising:

        using the viewer's television program recommender to access a plurality of user's

recommenders at locations remote from that at which the viewer is located (e.g. The

audience predictor (as *viewer's television program recommender*) uses the program

recommendations that were generated for a number of users to predict the size of an

audience, §0022, lines 5-8. Wherein, the audience predictor can collect the viewing

histories over a network, §0026, lines 1-5);

        using the viewer's recommender to communicate with a selection of the user's

recommender to generate data representing, at least one of a negative and positive

example feedback from one or more selected other users recommenders to be received

(e.g. the present invention predicts a level of interest in an item, such as the size of an

audience for a television program, based on the selection history of multiple users,

§0021, lines 1-5. Wherein, the viewing histories use to generate user profiles; and user

profile provides corresponding positive and negative program example, §0036, lines 1-

3. Schaffer also discloses: The program recommendation can be generated for each

user, §0031, lines 1-2); and

determining a recommendation for at least one television program to be watched in the future by the viewer based on at least one of the received negative and positive examples feedback (e.g. the profiling process processes the viewing histories to generate the corresponding user profiles. The program recommendation process generates program recommendation scores for the programs in a time period of interest, based on the feature counts in the user profiles. The audience prediction process predicts the size of an audience for a given television program based on the extent to which the program was recommended to the sampled users, §0029);

said determination of the recommendation being performed at the viewer location utilizing a processor provided as part of the viewer's television program recommender (e.g. The audience predictor 100 may be embodied as any computing device, such as a personal computer or workstation, that contains a processor 150, §0027, lines 1-3).

Regarding claim 2, Schaffer discloses the method further comprising generating a user profile for the user based on previous behavior of the user, wherein the determining comprises determining the recommendation based on the negative example and the user profile (e.g. the profiling process processes the viewing histories to generate the corresponding user profiles, §0029, lines 1-2).

Regarding claim 3, Schaffer further discloses wherein the generating of the user profile comprises generating an implicit user profile (As shown in Fig. 3, the implicit user

profile 300 contains a plurality of records 305-313 each associated with a different

program feature, §0035, lines 2-4).

Regarding claim 4, Schaffer further discloses wherein the determining comprises

determining the recommendation based on the negative and positive examples (§0045,

lines 3-6).

Claim 5 is cancelled.

Regarding claim 6, Schaffer discloses the method further comprising:

mapping the negative example to an electronic program guide database of

the user (§0025, lines 3-7); and

determining an equivalent negative example for the user from the electronic

program database (e.g. the program recommendation process generates program

recommendation scores for the programs in a time period of interest, based on the

feature counts in the user profiles, §0045, lines 3-6).

Regarding claim 7, Schaffer discloses the method further comprising:

mapping the positive example to an electronic program guide database of

the user (§0025, lines 3-7); and

determining an equivalent positive example for the user from the electronic

program database (§0045, lines 3-6).

Regarding claim 8, Schaffer discloses the method further comprising determining the one or more other users (e.g. a number of users, §0025, line 5).

Regarding claim 9, Schaffer further discloses wherein the determining comprises selecting the one or more other users based on geographical location of the one or more other users (e.g. selected for the user based on his or her demographics, §0036, lines 13-14).

Regarding claim 10, Schaffer further discloses, wherein the determining comprises selecting the one or more other users based on a similarity of likes and/or dislikes with the one or more other users (§0044, lines 1-7).

Regarding claim 11, Schaffer further discloses wherein the determining comprises selecting the one or more other users by the user (§0049, lines 1-6).

Regarding claim 12, Schaffer further discloses, wherein the selecting comprises:
presenting a plurality of other users to the user (e.g. As shown in Fig. 1 the audience predictor 100 uses the raw viewing histories of a number of users to predict the size of an audience, §0025, lines 3-6); and
the user selecting from among the plurality of other users to determine the one or more other users (e.g. Fig. 3 is a table illustrating an exemplary implicit user profile

contains a plurality of records each associated with a different program feature, §0035, lines 1-4).

Regarding claim 13, Schaffer further discloses, wherein the presenting comprises presenting the plurality of users based on geographical location of the one or more other users (§0021, lines 1-6).

Regarding claim 14, Schaffer further discloses, wherein the presenting comprises presenting the plurality of users based on a similarity of likes and/or dislikes of the one or more other users (e.g. Fig. 4 is a table from the program database of figs 1 and 2, with field 480 is record and indication of the predicted audience as determined by the audience prediction process, §0038, lines 1-2 ad 0039) .

Regarding claim 15, Schaffer further discloses, wherein the selecting comprises the user indicating the one or more other users (§0026, lines 1-5).

Claims 16-23 are cancelled.

Response to Arguments

5.   Applicant's arguments filed 11/23/2009 have been fully considered but they are not persuasive.

In response to Applicant's argument "*there is no suggestion or disclosure of using the data from a number of users apparatus, to provide a recommendation of a particular program*". Examiner respectfully disagrees.

Schaffer clearly discloses the limitation of "*using the data from a number of users apparatus, to provide a recommendation of a particular program*" (e.g. The audience predictor (as *viewer's television program recommender*) uses the program recommendations that were generated for a number of users to predict the size of an audience, §0022, lines 5-8. Wherein, the audience predictor can collect the viewing histories over a network, §0026, lines 1-5).

Further the Applicant argued that: "*there is no disclosure in the Shaffer prior art of using the data which is collected from the number of users apparatus, to provide any from of service or benefit to a particular viewer*". Examiner respectfully disagrees.

Schaffer further discloses the limitation "*using the data which is collected from the number of users apparatus, to provide any from of service or benefit to a particular viewer*" (e.g. the present invention predicts a level of interest in an item, such as the size of an audience for a television program, based on the selection history of multiple users, §0021, lines 1-5. Wherein, the viewing histories use to generate user profiles; and user profile provides corresponding positive and negative program example, §0036, lines 1-3. Schaffer also discloses: The program recommendation can be generated for each user, §0031, lines 1-2).

        In response to the Applicant's argument "*there is no disclosure in the Shaffer prior art, of the analysis of the data which is obtained from the users, being undertaken by apparatus of a particular viewer*". Examiner respectfully disagrees.

        Schaffer discloses the limitation "*the analysis of the data which is obtained from the users, being undertaken by apparatus of a particular viewer*" (e.g. the profiling process processes the viewing histories to generate the corresponding user profiles. The program recommendation process generates program recommendation scores for the programs in a time period of interest, based on the feature counts in the user profiles. The audience prediction process predicts the size of an audience for a given television program based on the extent to which the program was recommended to the sampled users, §0029).

        The Applicant further argued that "*the audience predictor, in whichever embodiment, would not be provided as part of a viewers recommendation system*"

        The Examiner respectfully disagrees. Since the Applicant has not defined "*a viewers recommendation system*" in claims language; therefore, the Examiner has full latitude to interpret each claim in the broadest reasonable sense (in re Morris, 127 F.3d 1048, 105455, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997)). Examiner references prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

Finally, this application is now considered. However, the teaching of Schaffer is still anticipated claim 1. Therefore, the rejection of the claim under 35 USC 102(e) is maintained.

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CECILE VO whose telephone number is (571)270-3031. The examiner can normally be reached on Mon - Thu (9AM - 5:00PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Mahmoudi can be reached on 571-272-4078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cam Y Truong/   /Cecile Vo/
Primary Examiner, Art Unit 2169   Examiner
                                                        Art Unit 2169